

SENATE BILL No. 549

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30-5.

Synopsis: OWI enhanced sentencing. Provides that a person who commits the crime of: (1) operating a vehicle with at least 0.10% by weight of alcohol or a schedule I or II controlled substance in the person's blood; or (2) operating a vehicle while intoxicated, commits a Class C felony if the crime results in serious bodily injury to at least two other persons and a Class B felony if the crime results in the death of at least two other persons. Prescribes minimum sentencing guidelines for a court to follow in alcohol related driving offenses based upon the percentage of alcohol found in the bloodstream or breath of the person who commits the offense. Allows a court to deviate from the guidelines based upon just and good cause.

Effective: July 1, 1999.

Meeks R

January 20, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 549

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) A person who causes serious
3 bodily injury to another person when operating a motor vehicle:

4 (1) with at least ten-hundredths percent (0.10%) of alcohol by
5 weight in grams in:

6 (A) one hundred (100) milliliters of the person's blood; or

7 (B) two hundred ten (210) liters of the person's breath;

8 (2) with a controlled substance listed in schedule I or II of
9 IC 35-48-2 or its metabolite in the person's body; or

10 (3) while intoxicated;

11 commits a Class D felony.

12 (b) However, the offense is a Class C felony if:

13 (1) **the offense results in serious bodily injury to at least two**

14 **(2) other persons; or**

15 (2) within the five (5) years preceding the commission of the
16 offense, the person had a prior unrelated conviction under this
17 chapter.



~~(b)~~ (c) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation of ~~subsection (a)~~: **subsection (b)**.

~~(c)~~ (d) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 2. IC 9-30-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with at least ten-hundredths percent (0.10%) of alcohol by weight in grams in:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony.

(b) However, the offense **described in subsection (a)** is a Class B felony if:

(1) **the offense results in the death of at least two (2) other persons; or**

(2) within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter.

~~(b)~~ (c) A person who violates subsection (a) commits a separate offense for each person whose death is caused by the violation of ~~subsection (a)~~: **subsection (b)**.

~~(c)~~ (d) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 3. IC 9-30-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, **and subject to section 10.5 of this chapter**, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or



(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court; the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than ~~two (2) years~~; **thirty (30) months**.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than ~~two (2) years~~; **thirty (30) months**. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than ~~two (2) years~~; **thirty (30) months**. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

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(f) **Notwithstanding section 10.5 of this chapter**, if the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 4. IC 9-30-5-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. (a) The sentencing guidelines under this section are recommended as the minimum penalties for an offense under this chapter. However, a court may impose a penalty or recommend a license suspension that deviates from the guidelines based upon just and good cause.**

(b) If the person who commits the offense does not have a previous conviction for operating a vehicle or motor boat while intoxicated, the minimum sentencing guidelines are:

(1) a monetary fine and a restricted license if the person who commits the offense operated the vehicle with at least ten-hundredths percent (0.10%) but less than fourteen hundredths percent (0.14%);

(2) a monetary fine, a three (3) month license suspension, and alcohol education if the person who commits the offense operated the vehicle with at least fourteen hundredths percent (0.14%) but less than eighteen hundredths percent (0.18%);

(3) a monetary fine, a one (1) year license suspension, and alcohol education if the person who commits the offense operated the vehicle with at least eighteen hundredths percent (0.18%) but less than twenty-two hundredths percent (0.22%);

(4) five (5) days imprisonment, a thirty (30) month license suspension, and alcohol education if the person who commits the offense operated the vehicle with at least twenty-two hundredths percent (0.22%) but less than twenty-six hundredths percent (0.26%); and

(5) ten (10) days imprisonment, a thirty (30) month license suspension, and alcohol education if the person who commits the offense operated the vehicle with at least twenty-six hundredths percent (0.26%);

of alcohol by weight in grams in one hundred (100) milliliters of the person's blood or two hundred ten (210) liters of the person's breath.

(c) If the person who commits the offense has a previous conviction for operating a vehicle or motor boat while intoxicated,



the minimum sentencing guidelines are:

(1) a monetary fine and a three (3) month license suspension if the person who commits the offense operated the vehicle with at least ten-hundredths percent (0.10%) but less than fourteen hundredths percent (0.14%);

(2) a monetary fine and a one (1) year license suspension if the person who commits the offense operated the vehicle with at least fourteen hundredths percent (0.14%) but less than eighteen hundredths percent (0.18%);

(3) five (5) days imprisonment and a thirty (30) month license suspension if the person who commits the offense operated the vehicle with at least eighteen hundredths percent (0.18%) but less than twenty-two hundredths percent (0.22%); and

(4) ten (10) days imprisonment and a thirty (30) month license suspension if the person who commits the offense operated the vehicle with at least twenty-two hundredths percent (0.22%); of alcohol by weight in grams in one hundred (100) milliliters of the person's blood or two hundred ten (210) liters of the person's breath.

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